

ASSEMBLY BILL

No. 2060

Introduced by Assembly Member Bates

February 19, 2002

An act to amend Sections 31760.2, 31785.1, and 31786.1 of the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2060, as introduced, Bates. County employees' retirement: death benefits.

The County Employees Retirement Law of 1937 provides that no amendment to that law shall affect the right to or amount of any retirement allowance payable to any member, or spouse or beneficiary of any member, who retired or died prior to the effective date of the amendment.

This bill would provide that, notwithstanding that provision, certain alternative death benefits may be made operative as of the date specified by the county board of retirement in its resolution making those benefits applicable in the county.

Under the County Employees Retirement Law of 1937, alternative death benefits may be payable to a surviving spouse provided, among other things, no other person has been designated in an order of a court in a domestic relations proceeding as a payee.

This bill would eliminate that proviso and would make other technical and clarifying changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 31760.2 of the Government Code is amended to read:

31760.2. (a) Notwithstanding Section 31481 or 31760.1, upon the death of any member after retirement for service or non-service-connected disability from a retirement system established in a county pursuant to this chapter, 60 percent of his or her retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued ~~throughout life~~ to his or her surviving spouse *for life*. If there is no surviving spouse entitled to an allowance under this section or if she or he dies before every child of the deceased member attains the age of 18 years, then the allowance ~~which that~~ the surviving spouse would have received had he or she lived, shall be paid to his or her child or children under that age collectively, to continue until ~~every such~~ *each* child dies or attains that age. However, no child ~~shall~~ *may* receive any allowance after marrying or attaining the age of 18 years.

(b) No allowance ~~shall~~ *may* be paid under this section to a surviving spouse unless he or she was married to the member at least two years prior to the date of death and has attained the age of 55 years on or prior to the date of death ~~and no other person has been designated in an order of a court in a domestic relations proceeding as a payee.~~

(c) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to the children through the age of 21 *years* if the children remain unmarried and are regularly enrolled as full-time students in an accredited school, as determined by the board.

(d) If at the death of any retired member there is no surviving spouse or minor children eligible for the 60-percent continuance provided in this section and the total retirement allowance income received by ~~him or her~~ *the retired member* during his or her lifetime did not equal or exceed his or her accumulated normal contributions, ~~his or her~~ *the retired member's* designated beneficiary shall be paid an amount equal to the excess of his or her accumulated normal contributions over his or her total retirement allowance income.

1 (e) No allowance ~~shall~~ *may* be paid pursuant to this section to
2 any person who is entitled to an allowance pursuant to Section
3 31760.1.

4 (f) The superseding rights pursuant to this section ~~shall~~ *do not*
5 affect benefits payable to a named beneficiary as provided under
6 Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2,
7 31789.3, 31789.5, or 31790.

8 (g) This section shall not be ~~operative~~ *applicable* in any county
9 until ~~the time as~~ the board of retirement ~~shall~~, by *resolution*
10 *adopted* by a majority vote, ~~make~~ *makes* this section applicable in
11 the county. *The board's resolution may designate a date, which*
12 *may be prior or subsequent to the date of the resolution, as of which*
13 *the resolution and this section shall be operative in the county or*
14 *a date as of which the resolution and this section shall become*
15 *inoperative in the county, or both.*

16 SEC. 2. Section 31785.1 of the Government Code is amended
17 to read:

18 31785.1. (a) Notwithstanding Section ~~31481~~ *or* 31785, upon
19 the death of any safety member, after retirement for service or
20 non-service-connected disability from a retirement system
21 established in a county pursuant to this chapter, 60 percent of his
22 or her retirement allowance if not modified in accordance with one
23 of the optional settlements specified in Article 11 (commencing
24 with Section 31760), shall be continued ~~throughout life~~ to his or
25 her surviving spouse *for life*. If there is no surviving spouse entitled
26 to an allowance under this section or if she or he dies before every
27 child of the deceased safety member attains the age of 18 years,
28 then the allowance ~~which that~~ the surviving spouse would have
29 received had he or she lived, shall be paid to his or her child or
30 children under that age, collectively, to continue until ~~every~~ *each*
31 child dies or attains that age. However, no child ~~shall~~ *may* receive
32 any allowance after marrying or attaining the age of 18 years.

33 (b) No allowance ~~shall~~ *may* be paid under this section to a
34 surviving spouse unless he or she was married to the safety
35 member at least two years prior to the date of death and has attained
36 the age of 55 years on or prior to the date of death ~~and no other~~
37 ~~person has been designated in an order of a court in a domestic~~
38 ~~relations proceeding as a payee.~~

39 (c) Notwithstanding any other provisions of this section, the
40 benefits otherwise payable to the children of the member shall be

1 paid to the children through the age of 21 *years* if the children
2 remain unmarried and are regularly enrolled as full-time students
3 in an accredited school as determined by the board.

4 (d) No allowance ~~shall~~ *may* be paid pursuant to this section to
5 any person who is entitled to an allowance pursuant to Section
6 31785.

7 (e) The superseding rights pursuant to this section ~~shall~~ *do not*
8 affect benefits payable to a named beneficiary as provided under
9 Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2,
10 31789.3, 31789.5, or 31790.

11 (f) This section shall not be ~~operative~~ *applicable* in any county
12 until ~~the time as~~ the board of retirement ~~shall~~, by *resolution*
13 *adopted by* a majority vote, ~~make~~ *makes* this section applicable in
14 the county. *The board's resolution may designate a date, which*
15 *may be prior or subsequent to the date of the resolution, as of which*
16 *the resolution and this section shall be operative in the county or*
17 *a date as of which the resolution and this section shall become*
18 *inoperative in the county, or both.*

19 SEC. 3. Section 31786.1 of the Government Code is amended
20 to read:

21 31786.1. (a) Notwithstanding Section ~~31481~~ *or* 31786, upon
22 the death of any member after retirement for service-connected
23 disability, his or her retirement allowance as it was at his or her
24 death if not modified in accordance with one of the optional
25 settlements specified in Article 11 (commencing with Section
26 31760), shall be continued ~~throughout life~~ to his or her surviving
27 spouse *for life*. If there is no surviving spouse entitled to an
28 allowance under this section or if he or she dies before every child
29 of the deceased member attains the age of 18 years, then the
30 allowance ~~which that~~ the surviving spouse would have received
31 had he or she lived, shall be paid to his or her child or children
32 under that age, collectively, to continue until ~~every such~~ *each* child
33 dies or attains that age. However, no child ~~shall~~ *may* receive any
34 allowance after marrying or attaining the age of 18 years.

35 (b) No allowance ~~shall~~ *may* be paid under this section to a
36 surviving spouse unless he or she was married to the member at
37 least two years prior to the date of death and has attained the age
38 of 55 years on or prior to the date of death ~~and no other person has~~
39 ~~been designated in an order of a court in a domestic relations~~
40 ~~proceeding as a payee.~~

1 (c) Notwithstanding any other provisions of this section, the
2 benefits otherwise payable to the children of the member shall be
3 paid to the children through the age of 21 years if the children
4 remain unmarried and are regularly enrolled as full-time students
5 in an accredited school as determined by the board.

6 (d) No allowance ~~shall~~ may be paid pursuant to this section to
7 any person who is entitled to an allowance pursuant to Section
8 31786.

9 (e) The superseding rights pursuant to this section ~~shall~~ do not
10 affect benefits payable to a named beneficiary as provided under
11 Section 31789, 31789.01, 31789.1, 31789.12, 31789.13, 31789.2,
12 31789.3, 31789.5, or 31790.

13 (f) This section shall not be ~~operative~~ applicable in any county
14 until ~~the time as~~ the board of retirement ~~shall~~, by resolution
15 adopted by a majority vote, ~~make~~ makes this section applicable in
16 the county. *The board's resolution may designate a date, which*
17 *may be prior or subsequent to the date of the resolution, as of which*
18 *the resolution and this section shall be operative in the county or*
19 *a date as of which the resolution and this section shall become*
20 *inoperative in the county, or both.*

